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Attorneys for Defendants

THE SWISS CONFEDERATION, THE FEDERAL ATTORNEY GENERAL
OF SWITZERLAND, GERALD SAUTEBIN AND BRENT HOLTKAMP

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

OLIVER HILSEN RATH, et al.,

Plaintiffs,

v.

THE SWISS CONFEDERATION, et al.,

Defendants.

Case No. C-07-2782-WHA

E-Filing

DEFENDANTS' CASE
MANAGEMENT STATEMENT

Date: August 30, 2007

Time: 3:00 p.m.

Courtroom: 9, 19th Floor

Judge: The Hon. William H. Alsup

1 On August, 20, 2007, counsel for Defendants The Swiss Confederation, The Federal
2 Attorney General Of Switzerland, Gerald Sautebin and Brent Holtkamp requested Plaintiffs
3 to agree to the submittal of a Joint Case Management Statement, and transmitted a draft of
4 the statement to Plaintiffs on that same date. Plaintiffs declined to participate in a joint
5 statement and indicated they would file separately. Accordingly, Defendants herewith
6 submit their Case Management Statement.

7 1. Jurisdiction and Service: Defendants have filed a Motion to Dismiss for
8 failure to serve any of the Defendants, lack of subject matter and personal jurisdiction based
9 on the Foreign Sovereign Immunities Act, the absence of material contacts of Messrs.
10 Sautebin and Holtkamp with California and the United States, the Act of State Doctrine,
11 and failure to state a claim.

12 2. Facts: Plaintiffs allege that Defendants conducted an investigation of certain
13 activities of Plaintiff Oliver Hilsenrath, issued a warrant for his arrest, froze his assets and
14 refused to release the assets when requested to do so by the U.S. government. Defendants
15 agree and add that the assets in question have been frozen in connection with a Swiss
16 criminal investigation of Plaintiff Oliver's Hilsenrath's possible violations of Swiss law.

17 3. Legal Issues: Plaintiffs have alleged that Defendants violated their rights
18 under the Fourth, Fifth, Sixth and Fourteenth Amendments to the U.S. Constitution.
19 Defendants have filed a Motion to Dismiss for failure to serve any of the Defendants, lack
20 of subject matter and personal jurisdiction based on the Foreign Sovereign Immunities Act,
21 the absence of material contacts of Messrs. Sautebin and Holtkamp with California and the
22 United States, the Act of State Doctrine, and failure to state a claim because the U.S.
23 Constitution does not apply to Defendants.

24 4. Motions: Defendants filed a motion to dismiss on August 6, described
25 above. Pursuant to a Stipulation, Plaintiffs' opposition is due September 27, Defendants'
26 reply is due October 11, and the hearing is scheduled for October 25. In addition, on
27 August 3 Plaintiffs filed a Request to Clerk to Enter Default, and on August 6 Defendants
28 filed a Motion to Strike Plaintiffs' Request to Clerk to Enter Default.

- 1 5. Amendment of Pleadings: None currently expected.
- 2 6. Evidence Preservation: Not applicable.
- 3 7. Disclosures: Initial disclosure requirements of Fed. R. Civ. P. 26 not
- 4 applicable in light of Motion to Dismiss.
- 5 8. Discovery: Discovery not applicable in light of Motion to Dismiss.
- 6 9. Class Actions: Not applicable.
- 7 10. Related Cases: CR03-00213 WHA (U.S.A. v. Hilrenrath, et al.); C 03-
- 8 03252 WHA (Securities And Exchange Commission v. Hilsenrath, et al.).
- 9 11. Relief: Plaintiffs apparently seek a total of \$26.05 million, plus additional
- 10 damages to be determined. Defendants reject liability, and in any event pursuant to 28
- 11 U.S.C. §1609 would be immune from execution of a judgment in Plaintiffs' favor.
- 12 12. Settlement and ADR: There are no prospects for settlement at this time.
- 13 13. Consent to Magistrate Judge For All Purposes: Defendants do not consent to
- 14 have a magistrate judge conduct all further proceedings.
- 15 14. Other References: The case is not suitable for reference to binding
- 16 arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.
- 17 15. Narrowing of Issues: The parties have not agreed on a mechanism for
- 18 narrowing the issues.
- 19 16. Expedited Schedule: Pending the Court's determination of the Motion to
- 20 Dismiss, there are no proposals to expedite the schedule.
- 21 17. Scheduling: Dates for the briefing relating to the Motion to Dismiss and the
- 22 related hearing have already been agreed.
- 23 18. Trial: Pursuant to 28 U.S.C. § 1330(a), the case would have to be tried to
- 24 the court. Defendants expect the case to be dismissed and therefore that there will be no
- 25 trial.

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2 19. Disclosure of non-party interested entities or persons: Civil L.R. 3-16 is not
3 applicable to Defendants, who are governmental entities.
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5 Dated: August 23, 2007.

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